

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

**FREDDIE WEHRMAN**

§

**Plaintiff,**

§

v.

§

**SMITH COUNTY, TEXAS,**

§

**Defendant.**

§

§

**CAUSE NO. \_\_\_\_\_**

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff Freddie Wehrman hereby files this, his Original Complaint, against Smith County, Texas, for violating state and federal law. The causes of action and summary of claims relating thereto are addressed below:

**I. PARTIES, JURISDICTION AND VENUE**

1. Plaintiff Freddie Wehrman (“Wehrman” or “Plaintiff”) is currently a citizen and resident of the State of Texas.
2. Defendant Smith County, Texas, is a domestic government agency doing business in the State of Texas.
3. Defendant can be served by and through its registered agent for service, Karen Phillips, County Clerk, located at 200 E. Ferguson Suite 300, Tyler, Texas 75702.
4. This court has jurisdiction to hear the merits of Plaintiff's claims under 28 U.S.C. §§1331 & 1343. Venue exists in this district and division as detailed in 28 U.S.C. §1391.

5. Plaintiff filed a “Charge of Discrimination” with the Equal Employment Opportunity Commission (“EEOC”) and the Texas Workforce Commission – Civil Rights Divisions (“TWC”) on or about May 29, 2014, alleging age discrimination. This action is being commenced within the time limits prescribed by the Age Discrimination in Employment Act (“ADEA”), 29 U.S.C. §§ 6281*et. seq.*, as it is being filed within ninety (90) days of receipt of the “Dismissal and Notice of Rights” issued on March 16, 2015 by the EEOC. In addition, it is commenced within the time limits of the Texas Commission on Human Rights Act (“TCHRA”), TEX. LABOR CODE. §§ 21.001 *et. seq.* as it was filed more than 180 days after the charge was filed, and within two years of the events forming the basis of Plaintiff’s claims.

## **II. FACTUAL BACKGROUND**

6. Plaintiff was employed by Defendant for 4 years as Maintenance Personnel.
7. On December 6, 2013, Defendant terminated Plaintiff’s employment. Thereafter, the terminating manager explained that Plaintiff was terminated because he was “too old” to do the job. At the time of his termination Plaintiff was 58 years old and fully capable of doing the job.
8. At one point Defendant claimed that Plaintiff was terminated because of poor job performance, but during his employment Plaintiff never received any feedback that his performance was poor. It is clear that Plaintiff’s age was the actual reason for his termination.

### **III. CAUSE OF ACTION**

#### **A. VIOLATION OF ADEA AND TCHRA**

9. Plaintiff realleges and incorporates the allegations contained in Paragraphs 1 through 9 as if fully stated herein.

10. Plaintiff has satisfied all jurisdictional prerequisites in connection with his claim under the ADEA and TCHRA.

11. Defendant is an “employer” as defined by the ADEA and TCHRA.

12. Plaintiff is considered to be an “employee” as defined by the ADEA and TCHRA.

13. At the time that Plaintiff was an employee of Defendant, he was over the age of 40; thus she was in a protected category as defined by the ADEA and TCHRA.

14. As described above, Defendant intentionally and willfully violated the ADEA and TCHRA by discriminating against Plaintiff because of his age.

15. As a result of Defendant’s violations of the ADEA and TCHRA, Plaintiff has suffered actual damages in the form of lost wages and benefits (past and future), in an amount that has not yet been fully established, but which can be estimated for the purpose of bringing this lawsuit. Plaintiff has also suffered mental trauma, loss of enjoyment of life, and other recoverable damages.

16. As a result of these willful violations of the ADEA and TCHRA by Defendant, Plaintiff requests that he be awarded all compensatory and punitive damages, to which he is entitled, equitable and/or injunctive relief, and attorney fees and costs.

### **IV. JURY DEMAND**

Plaintiff requests trial by jury on all claims.

**V. PRAYER FOR RELIEF**

Wherefore, Plaintiff requests that Defendant be cited to appear and answer, and that on final trial, Plaintiff have judgment against Defendant as follows:

- a. Judgment against Defendant for actual damages, including lost wages and benefits (both back pay and front pay), the sum to be determined at time of trial;
- b. Judgment against Defendant for compensatory damages in the maximum amount allowed by law;
- c. Judgment against Defendant for liquidated damages in the maximum amount allowed by law;
- d. Judgment against Defendant for punitive damages, if allowed under law;
- e. An order that Defendant take such other and further actions as may be necessary to redress Defendant's violation of the ADEA and TCHRA, (including injunctive relief and possibly reinstatement);
- f. Pre-judgment and post-judgment interest at the maximum amount allowed by law;
- g. Costs of suit, including attorney's fees;
- h. The award of such other and further relief, both at law and in equity, to which Plaintiff may be justly entitled.

Respectfully submitted by:

/s/ Robert (Bobby) Lee  
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